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RULES

ENFORCEMENT DIVISION

OF

# PRACTICE AND PROCEDURE

BEFORE THE

## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

As Provided in Chapter 480-08  
Washington Administrative Code



and

Administrative Procedures Act  
Chapter 30.04 Revised Code  
of Washington



Rules of Practice and Procedure  
Washington Utilities & Transportation Commission

# **RULES**

OF

## **Practice and Procedure**

BEFORE THE

## **Washington Utilities and Transportation Commission**

Chapter 480-08

PROCEDURE

WAC

- 480-08-010 Communications
- 480-08-020 Office hours
- 480-08-030 Parties
- 480-08-040 Informal procedure; applications and protests
- 480-08-050 Pleadings
- \* 480-08-055 Objections to closures of highway-railroad grade crossings
- 480-08-060 Filing and service
- 480-08-070 Intervention
- 480-08-080 Appearances
- 480-08-090 Appearance and practice before commission
- 480-08-100 Prehearing conferences
- 480-08-110 Voluntary settlement
- 480-08-120 Subpoenas
- 480-08-130 Depositions
- 480-08-140 Hearings
- 480-08-150 Continuances
- 480-08-160 Stipulation as to facts
- 480-08-170 Conduct at hearings
- 480-08-180 Order of procedure
- 480-08-190 Rules of evidence
- 480-08-200 Exhibits and documentary evidence
- 480-08-210 Modified procedure
- 480-08-220 Briefs
- 480-08-230 Commission proposed orders
- 480-08-240 Proposed orders by examiners
- 480-08-250 Rehearing or reconsideration
- 480-08-260 No discussion of proceeding until decision
- 480-08-270 Joint hearings
- 480-08-280 Administrative rulings
- 480-08-290 Segregation of functions in formal proceedings
- 480-08-300 Compliance with orders
- 480-08-310 Computation of time
- 480-08-320 Suspension of tariffs
- 480-08-330 General application—Special rules—Exceptions—Cancellation of former rules

\* New G.O. R-79 Effective January 3, 1976

**WAC 480-08-010 COMMUNICATIONS**

(1) **Address.** Except as provided in WAC 480-04, all written communications and documents should be addressed to: The Secretary, Washington Utilities and Transportation Commission, Seventh Floor, Highways-Licenses Building, Olympia, Washington 98504, and not to individual members of the Commission staff. Except as provided in WAC 480-04, all communications and documents are deemed to be officially received only when delivered at the office of the Secretary.

(2) **One subject in a letter.** Letters to the Washington Utilities and Transportation Commission (hereinafter referred to as the "Commission") should embrace but one subject.

(3) **Identification.** Every holder of a permit, license or certificate from the Commission, in addressing communications to the Commission, should use the name shown upon such permit, license or certificate and give the number thereof.

(4) **Remittances.** Remittances to the Commission shall be by money order, bank draft or check payable to the Washington Utilities and Transportation Commission. Remittances in currency or coin are wholly at the risk of the remitter and the Commission assumes no responsibility for loss thereof. Postage stamps should not be remitted except when remitter is so directed.

**WAC 480-08-020 OFFICE HOURS**

(1) **General.** Offices of the Commission are open on each business day between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

\* **WAC 480-08-030 PARTIES**

(1) **General.** "Person" or "party" when used in these rules means any individual, corporation, partnership, chamber of commerce, board of trade or any commercial, mercantile, agricultural or manufacturing association, or any body politic or municipal corporation; PROVIDED, That "party" shall be limited to any of the foregoing who have complied with all requirements pertaining to the establishment and maintenance of party status in any proceeding before the Commission, including but not limited to the entry of a formal appearance at any hearing held in the matter under the provisions of WAC 480-08-080.

(2) **Classification of parties.** Parties to proceedings before the Commission shall be styled applicants, complainants, petitioners, respondents, intervenors, or protestants, according to the nature of the proceeding and the relationship of the parties thereto.

(3) **Applicants.** Persons applying or petitioning for any right or authority from the Commission shall be styled "applicants."

(4) **Complainants.** Persons who complain to the Commission of any act or omission by any other person shall be styled "complainants." In any proceeding which the Commission brings on its own motion, it shall be styled "complainant."

(5) Petitioners. Persons (other than complainants) petitioning for rehearing or for relief shall be styled "petitioners."

(6) Respondents. Persons against whom any complaint is filed shall be styled "respondents."

(7) Intervenors. Persons permitted to intervene, as hereinafter provided, shall be styled "intervenors."

(8) Protestants. Persons opposing applications or petitions, and also (in investigation and suspension proceedings) those who oppose tariff schedules filed by public service companies shall be styled "protestants."

WAC 480-08-040 INFORMAL PROCEDURE; APPLICATIONS AND PROTESTS

\* (1) Informal complaints. Informal complaints may be made by letter or other communication. Matters thus presented may be taken up by the Commission with the parties affected, by correspondence or otherwise, in an endeavor to bring about an adjustment of the subject matter of the complaint without formal hearing or order. Informal procedure is recommended wherever practicable.

(2) Informal complaints--Contents. No form of informal complaint is prescribed, but in substance the letter or other writing should contain all facts essential to a disposition of the complaint, including the dates of acts or omissions complained against. It will be helpful if the statutes or rules of the Commission which are alleged to be involved or violated are cited. Proceedings instituted by informal complaint shall be without prejudice to the right of any party or the Commission to file and prosecute a formal complaint. Since informal complaints are not in themselves a basis of formal action, all parties desiring a formal order of the Commission should file a formal complaint. Informal procedure is designed only for the amicable adjustment of disputes, and no mandatory or prohibitory order may be issued in an informal proceeding.

(3) Applications. Requests for a permit, license or certificate shall be by application on forms furnished by the Commission on request.

(4) Protests. Persons whose interests would be adversely affected by the granting of an application or by a rate schedule becoming effective may file protests thereto. Protests to applications must conform to the requirements of any Special Rules relative to the type of application being protested. Protestants are not entitled, as a matter of right, to a formal hearing upon the matter being protested, but protests may contain a request for a formal hearing and in such case the protest shall be filed in duplicate. The Commission may, whether or not a protest contains such request, set the matter in question for formal hearing. In such case the Commission shall serve a copy of the protest upon the applicant or petitioners, or the person filing

a rate schedule, at the time of giving notice of the hearing. A reply may be made to said protest, but it is not required.

\* WAC 480-08-050 PLEADINGS

(1) Pleadings enumerated. Pleadings before the commission shall be formal complaints, petitions, answers, replies and motions.

(2) Verification. All pleadings, except motions and complaints brought upon the commission's own motion, shall be verified in the manner prescribed for verification of pleadings in the Superior Court of Washington.

(3) Time for motion. Any motion directed toward a complaint or petition must be filed before the answer is due, otherwise such objection must be raised in the answer. If a motion is directed toward an answer, it must be filed before the reply is due, otherwise such objection must be raised in the reply. If a motion is directed toward a reply, it must be filed within ten days after service of the reply.

(4) Time for answer or reply. An answer, if made, must be filed within twenty days, and a reply, if made, must be filed within ten days, after the service of the pleading against which it is directed, unless otherwise provided in these rules or ordered by the commission: PROVIDED, This rule shall not apply to proceedings brought on the commission's own motion for violation of the laws, rules or regulations governing public service companies. Whenever the commission believes the public interest requires expedited procedure it may shorten the time required for any answer or reply.

(5) Defective pleadings. Upon the filing of any pleading, it will be inspected by the commission and if found to be defective or insufficient, it may be returned to the party filing it for correction.

(6) Liberal construction. All pleadings shall be liberally construed with a view to effect justice between the parties, and the commission will, at every stage of any proceeding, disregard errors or defects in the pleadings or proceeding which do not affect the substantial rights of the parties.

(7) Amendments. The commission may allow amendments to the pleadings or other relevant documents at any time upon such terms as may be lawful and just, provided that such amendments do not adversely affect the interest of persons who are not parties to the proceeding.

\* Amended by G.O. R-130

(8) Disposition of motions. The commission may direct all motions to be submitted for commission decision on either written or oral argument, and may permit the filing of affidavits in support or contravention thereof. Motions filed by different parties but involving the same point of law may be set for hearing at the same time.

(9) Consolidation of proceedings. Two or more proceedings where the facts or principles of law are related may be consolidated and heard together.

\* (10) Formal complaints. Formal complaints are those complaints filed in accordance with RCW 80.04.110 and 81.04.110, complaints filed pursuant to chapter 33, Laws of 1979, or complaints in proceedings designated by the commission as formal proceedings.

(11) Formal complaints--Contents. Formal complaints as to any acts or omissions by any person, or for the redress of alleged grievances, must be in writing setting forth clearly and concisely the ground of complaint and a statement of the acts or things done or omitted to be done by such person. Facts constituting such acts or omissions, together with citations of the statutes or rules of the commission involved, should be stated together with the dates on which the acts or omissions occurred. The name of the person, complained against must be stated in full, and the address of the complainant, together with the name and address of his attorney, if any, must appear upon the complaint.

In proceedings under RCW 80.04.110 and 81.04.110, the provisions of said statute, together with the above provisions, shall apply.

(12) Petitions. All pleadings praying for affirmative relief (other than complaints or answers), including requests to be permitted to intervene in proceedings, or for rehearing, shall be styled "petitions."

(13) Petitions--Contents. A petition shall set forth all facts upon which the request for relief is based, with the dates of all occurrences which may be essential for disposition of the matter, together with a citation of the statutes and rules and regulations of the commission upon which the petition is based.

\* (14) Answer. Except as otherwise provided in subsection (4) of this section any party against whom a complaint or petition is directed who desires to contest the same or make any representation to the commission in connection therewith except a general denial of the allegations therein contained (in which case no answer shall be required) shall file with the commission and serve upon the complainant or petitioner an answer thereto. Answers shall be so drawn as to advise the parties and the commission fully and com-

pletely of the nature of the defense and shall admit or deny specifically and in detail all material allegations of the complaint or petition. Matters alleged by way of affirmative defense shall be separately stated and numbered. In case a party fails to answer within the time specified in subsection (4) of this section, he shall be deemed to have denied generally the allegations of the complaint or petition and shall be precluded, except with the consent of opposing parties and the commission, from setting up any affirmative defense in the proceeding, and the commission will proceed with the matter solely upon the issues set forth in the complaint or petition.

(15) Reply. A complainant or petitioner desiring to reply to an answer shall file same with the commission, together with proof of service, within the time set forth in subsection (4) of this section. Failure to file a reply within said time shall be deemed a general denial.

(16) Motions. Subject to the provisions of subsection (6) of this section, the practice respecting motions including the grounds therefor, and forms thereof, shall conform insofar as possible with the practice relative thereto in the Superior Court of Washington.

(17) Petitions for rule making, amendment or repeal.

(a) Any interested person may petition the commission requesting the promulgation, amendment or repeal of any rule.

(b) Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule. Any petition for promulgation, amendment, or repeal of a rule shall be accompanied by briefs of any applicable law, and shall contain an assessment of economic values affected by the proposed promulgation, amendment or repeal.

(c) All petitions shall be considered by the commission which may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal or modification of any rule.

(d) The commission shall notify the petitioning party within a reasonable time of the disposition of the petition.

(e) In rule making proceedings initiated by interested persons on petition, as well as by the commission on its own motion, the commission will include in its order determining the proceedings its assessment of economic values affected by the rule making involved. In addition, the notice of intention to effect any rule making will contain a solicitation of data, views and arguments from interested persons on the economic values which may be affected by such rule making.



(18) Declaratory rulings. As prescribed by section 8, chapter 234, Laws of 1959, RCW 34.04.080, any interested person may petition the commission for a declaratory ruling. The commission shall consider the petition and within a reasonable time the commission shall:

- (a) Issue a nonbinding declaratory ruling; or
- (b) Notify the person that no declaratory ruling is to be issued; or

(c) Set a reasonable time and place for a hearing or the submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

If a hearing is held or evidence is submitted, as provided in subdivision (c), the commission shall within a reasonable time:

- (i) Issue a binding declaratory ruling; or
- (ii) Issue a nonbinding declaratory ruling; or
- (iii) Notify the person that no declaratory ruling is to be issued.

(19) Forms.

(a) Any interested person petitioning the commission for a declaratory ruling pursuant to section 8, chapter 234, Laws of 1959, shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the Washington Utilities and Transportation Commission." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of the petitioning party) for a Declaratory Ruling." Opposite the foregoing caption shall appear the word "Petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Subsequent paragraphs shall set out the statement of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

The original and two legible copies shall be filed with the commission. Petitions shall be on white paper, either 8-1/2" x 11" or 8-1/2" x 13" in size.

(b) Any interested person petitioning the commission requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the Washington Utilities and Transportation Commission." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of Rule (or Rules)." Opposite the foregoing caption shall appear the word "Petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and rule proposed to be repealed shall either be set forth in full or shall be referred to by commission rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the commission. Petitions shall be on white paper, either 8- $\frac{1}{2}$ " x 11" or 8- $\frac{1}{2}$ " x 13" in size.

WAC 480-08-055 OBJECTIONS TO CLOSURES OF HIGHWAY-RAILROAD GRADE CROSSINGS.

(1) Filing. Objections to closures of highway-railroad grade crossings under RCW 81.53.060 shall be filed in writing within 20 days of publication of notice of the proposed closure, setting forth the full names and mailing addresses of persons objecting to the closure, the particular crossing which is the subject of the objection, the commission cause number, if known, and a statement of the objection. Communications which do not meet these requirements, other than the requirement of stating the commission cause number, will not be treated as objections for the purpose of requiring a hearing upon the proposed closure to be held as provided by RCW 81.53.060.

(2) Party status-appearances-service of final order. No person who fails to enter an appearance as prescribed by WAC 480-08-080, will be entitled to party status to a proceeding under RCW 81.53.060 after the close of the period for the taking of appearances if a hearing is held, even though such person may have filed an objection to a proposed crossing closure under the provisions of paragraph 1 of this section, and no such person will be entitled to service of the final order of the commission in the matter unless party status is reestablished through intervention under the provisions of WAC 480-08-070.

WAC 480-08-060 FILING AND SERVICE

(1) Filing of formal complaints and petitions. Formal complaints and petitions shall be typewritten, mimeographed or printed, and the original and two legible copies shall be filed with the Commission, together with one legible copy for service by the Commission on each of the other parties to the cause.

(2) Filing of other pleadings. All pleadings except formal complaints and petitions shall be typewritten or mimeographed and the original and two legible copies shall be filed with the Commission and a legible copy thereof shall be served upon each party to the proceeding.

(3) Service by parties. Service of pleadings by parties shall be made by delivering one copy to each party in person or by mail, properly addressed with postage prepaid. Except as otherwise provided, when any party has appeared by attorney or other authorized representative, service upon such attorney or representative will be deemed valid service upon the party of all future pleadings and of all orders of the Commission in such proceeding. Service of pleadings shall be deemed complete when a true copy of such paper or document, properly addressed and stamped, is deposited in the United States mail. Attorneys or other authorized representatives withdrawing from a proceeding shall immediately so notify the Commission and all parties to the proceeding.

(4) Service by Commission. All notices, complaints, petitions, findings of fact, opinions and orders required to be served by the Commission may be served by mail and service thereof shall be deemed complete when a true copy of such paper or document, properly addressed and stamped, is deposited in the United States mail.

(5) Certificate of service. There shall appear on the original of every pleading when filed with the Commission in accordance with Subsection (2), either an acknowledgment of service, or the following certificate:

"I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by delivering a copy thereof in person to (here name persons served) or by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his attorney or authorized agent.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
(Signature)  
Of Counsel for \_\_\_\_\_"

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and rule proposed to be repealed shall either be set forth in full or shall be referred to by commission rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the commission. Petitions shall be on white paper, either 8-1/2" x 11" or 8-1/2" x 13" in size.

**WAC 480-08-055 OBJECTIONS TO CLOSURES OF HIGHWAY-RAILROAD GRADE CROSSINGS.**

(1) Filing. Objections to closures of highway-railroad grade crossings under RCW 81.53.060 shall be filed in writing within 20 days of publication of notice of the proposed closure, setting forth the full names and mailing addresses of persons objecting to the closure, the particular crossing which is the subject of the objection, the commission cause number, if known, and a statement of the objection. Communications which do not meet these requirements, other than the requirement of stating the commission cause number, will not be treated as objections for the purpose of requiring a hearing upon the proposed closure to be held as provided by RCW 81.53.060.

(2) Party status-appearances-service of final order. No person who fails to enter an appearance as prescribed by WAC 480-08-080, will be entitled to party status to a proceeding under RCW 81.53.060 after the close of the period for the taking of appearances if a hearing is held, even though such person may have filed an objection to a proposed crossing closure under the provisions of paragraph 1 of this section, and no such person will be entitled to service of the final order of the commission in the matter unless party status is reestablished through intervention under the provisions of WAC 480-08-070.

WAC 480-08-060 FILING AND SERVICE

(1) Filing of formal complaints and petitions. Formal complaints and petitions shall be typewritten, mimeographed or printed, and the original and two legible copies shall be filed with the Commission, together with one legible copy for service by the Commission on each of the other parties to the cause.

(2) Filing of other pleadings. All pleadings except formal complaints and petitions shall be typewritten or mimeographed and the original and two legible copies shall be filed with the Commission and a legible copy thereof shall be served upon each party to the proceeding.

(3) Service by parties. Service of pleadings by parties shall be made by delivering one copy to each party in person or by mail, properly addressed with postage prepaid. Except as otherwise provided, when any party has appeared by attorney or other authorized representative, service upon such attorney or representative will be deemed valid service upon the party of all future pleadings and of all orders of the Commission in such proceeding. Service of pleadings shall be deemed complete when a true copy of such paper or document, properly addressed and stamped, is deposited in the United States mail. Attorneys or other authorized representatives withdrawing from a proceeding shall immediately so notify the Commission and all parties to the proceeding.

(4) Service by Commission. All notices, complaints, petitions, findings of fact, opinions and orders required to be served by the Commission may be served by mail and service thereof shall be deemed complete when a true copy of such paper or document, properly addressed and stamped, is deposited in the United States mail.

(5) Certificate of service. There shall appear on the original of every pleading when filed with the Commission in accordance with Subsection (2), either an acknowledgment of service, or the following certificate:

"I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by delivering a copy thereof in person to (here name persons served) or by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his attorney or authorized agent.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

(Signature)

Of Counsel for \_\_\_\_\_"

WAC 480-08-070 INTERVENTION

(1) General intervention. Any person, other than the original parties to any proceeding before the Commission, who shall desire to appear and participate in the proceeding, and who does not desire to broaden the issues of the original proceeding, may petition in writing for leave to intervene in the proceeding prior to, or at the time, it is called for hearing; or may make an oral motion for leave to intervene at the time of the hearing. No such petition or motion shall be filed or made after the proceeding is underway, except for good cause shown. The petition or motion to intervene must disclose the name and address of the party intervening; the name and address of his attorney, if any; his interest in the proceeding; and his position in regard to the matter in controversy.

(2) Special intervention. Any person other than the original parties to any proceeding before the Commission, who shall desire to appear and participate in the proceeding, and who desires to broaden the issues of the original proceeding, shall petition in writing for leave to intervene in the proceeding, which petition shall be filed with the Commission and copies thereof shall be mailed to the original parties to the proceeding at least ten days prior to the date of the hearing. The petition must disclose the name and address of the party intervening; the name and address of his attorney, if any; his interest in the proceeding; and his position in regard to the matter in controversy. There shall be attached to said petition a properly verified complaint or answer, as the case may be, setting forth clearly and concisely the facts supporting the relief sought.

(3) Disposition of petitions and motions to intervene. Petitions and motions to intervene shall be considered first at all hearings and prehearing conferences, or may be set for prior hearing, and an opportunity shall be afforded the original parties to be heard thereon. If it appears, after such consideration, that the petition or motion discloses a substantial interest in the subject matter of the hearing, or that participation of the petitioner may be in the public interest, the Commission may grant the same, which may be done by oral order at the time of the hearing or prehearing conference. Thereafter such petitioner shall become a party to the proceeding and shall be known as an "intervenor," with the same right to produce witnesses and of cross-examination as other parties to the proceeding. Whenever it appears, during the course of a proceeding, that an intervenor has no substantial interest in the proceeding, and that the public interest will not be served by his intervention therein, the Commission may dismiss him from the proceeding: PROVIDED, HOWEVER, That a party whose intervention has been allowed shall not be dismissed from a proceeding except upon notice and a reasonable opportunity to be heard.

\* Amended by General Order  
R-113 April 19, 1978

(4) Limitation of intervention under certain circumstances. Notwithstanding the provisions of subsections (1) and (2) of this section, if the Commission determines that the orderly administration of any proceeding so requires, the making or filing of motions or petitions for leave to intervene may be limited to the time of a prehearing conference, for general intervention, or ten days prior to such prehearing conference, for special intervention, where the Commission has given not less than twenty days' written notice of the prehearing conference to all parties and caused the same to be published in a newspaper or newspapers of general circulation in the area affected by the proceeding no fewer than two days in a continuous seven-day period.

**\*\* WAC 480-08-080 APPEARANCES.**

(1) General. Parties shall enter their appearances at the beginning of the hearing or prehearing conference by giving their names and addresses in writing to the reporter who will include the same in the record of the hearing or prehearing conference. The presiding officer conducting the hearing or prehearing conference may, in addition, require appearances to be stated orally, so that the identity and interest of all parties present will be known to those in attendance. Appearance may be made on behalf of any party by his attorney or other authorized representative, as defined in WAC 480-08-090(1). Any future notice, pleading or order in the matter which is required to be served upon parties to the proceeding may be served upon the attorney or representative of a party so represented and such service shall be effective as service upon the party; PROVIDED, That the final order or decision, complete with findings of fact and conclusions of law, shall be served upon all parties as well as the attorneys or authorized representatives of such parties, if any.

(2) Termination of party status. Notwithstanding any other provisions of these rules pertaining to party status, and unless specifically authorized by order of the Commission for good cause shown, no person shall be a party to any proceeding in which such person has failed to enter a written appearance (and an oral appearance upon request of the presiding officer) at any hearing or prehearing conference in the matter as prescribed in paragraph (1); the party status of any person failing to enter a written appearance (and an oral appearance upon request of the presiding officer) terminates as a matter of law at the close of the period of taking such appearances and any subsequent participation in the proceedings, other than as a witness, by persons who have failed to enter appearances as above prescribed will be treated under the rules pertaining to intervention, in WAC 480-08-070: PROVIDED, That nothing in this section shall be construed to terminate the party status of any person who is a respondent in any proceeding which involves alleged violations of provisions of Titles 80 or 81 RCW or Title 480 WAC.

**\*\* Amended by General Order  
R-113 April 19, 1978**

**WAC 480-08-090 APPEARANCE AND PRACTICE BEFORE COMMISSION**

(1) General. In all proceedings wherein pleadings are filed and a formal hearing is held involving the taking of testimony and formulation of a record subject to review by the courts, no person may appear in a representative capacity other than the following:

(a) Attorneys at law duly qualified and entitled to practice before the Supreme Court of the State of Washington.

(b) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if attorneys at law of the State of Washington are permitted to appear in a representative capacity before the public service regulatory body of such other state;

(c) Persons not attorneys at law who have been duly authorized to practice before the Interstate Commerce Commission;

(d) Upon permission of the presiding officer at such hearing, a *bona fide* officer or full time employee of an individual, firm, association or corporation who appears for such individual, firm, association or corporation.



Where the Commission, in giving notice of hearing, determines that representative activity in such hearing requires a high degree of legal training, experience and skill, the Commission may limit those who may appear in a representative capacity to attorneys at law.

(2) Solicitation of business by attorneys or practitioners. It shall be unethical for persons acting in a representative capacity before the Commission to solicit business by circulars, advertisements or by personal communication or interviews not warranted by personal relations, provided that such representatives may publish or circulate business cards. It is equally unethical to procure business indirectly by solicitors of any kind.

(3) Discipline for unethical conduct. All persons appearing in proceedings before the Commission in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the Commission may decline to permit such person to appear in a representative capacity in any proceeding before the Commission.

(4) Former employees. No former employee of the Commission or member of the attorney general's staff may within one year after severing his employment with the Commission or the Attorney General appear, except with the written permission of the Commission, in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part as a representative of the Commission.

(5) Expert witnesses. No former employee of the Commission shall within one year after severing his employment with the Commission appear, except with the written permission of the Commission, as an expert witness on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation as a representative of the Commission.

#### WAC 480-08-100 PREHEARING CONFERENCES

(1) General. When issues are joined in any formal proceeding the Commission may, by written notice, request all interested parties to attend, with or without counsel, a prehearing conference for the purpose of determining the feasibility of settlement, or of formulating the issues in the proceeding and to determine other matters to aid in its disposition. A Commissioner or an employee of the Commission designated by the Commission, shall preside at such conference, to consider:

- (a) Simplification of the issues;
- (b) The necessity or desirability of amendments to the pleadings;

(c) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(d) Limitations on the number and consolidation of the examination of witnesses;

(e) The procedure at the hearing;

(f) The distribution of written testimony and exhibits to the parties prior to the hearing;

(g) Such other matters as may aid in the disposition of the proceeding, or settlement thereof; and

\* (h) The disposition of motions or petitions for leave to intervene in the proceeding filed pursuant to WAC 480-08-070.

(2) Notice as to simplified issues. Following the prehearing conference a proposed form of notice of the formal hearing, if one is to be had, reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties concerning all of the matters considered shall be submitted by mail as provided by WAC 480-08-060(4) to the parties or their attorneys, or other authorized representatives, for approval. If no objection to such form of notice is filed within 10 days after the date such notice is mailed, it shall be deemed to be approved. This notice when so approved and after due service, shall limit the issues to be heard at the hearing to those not disposed of by admissions or agreements of the parties or their counsel, and will control the subsequent course of the proceeding unless modified at the hearing to prevent manifest injustice.

(3) Recessing hearing for conference. In any proceeding the presiding officer may, in his discretion, call the parties together for a conference prior to the taking of testimony, or may recess the hearing for such a conference, with a view to carrying out the purpose of this rule. The presiding officer shall state on the record the results of such conference.

#### WAC 480-08-110 VOLUNTARY SETTLEMENT

(1) General. Where the matter in controversy affects only the parties involved and not the general public, such parties to the proceeding may, with the approval of the Commission, enter into a voluntary settlement of the subject matter of the complaint prior or subsequent to a formal hearing; and in furtherance of a voluntary settlement, the Commission may, in its discretion, invite the parties to confer with it or with an examiner designated by it. Such conferences shall be informal and without prejudice to the rights of the parties, and no statement, admission or offer of settlement made at such informal conference shall be admissible in evidence in any formal hearing before the Commission.

\* Amended by General Order  
R-113 April 19, 1978

WAC 480-08-120 SUBPOENAS

(1) General. Subpoenas may be issued by a Commissioner, or an Examiner, and witnesses are required to comply therewith in the manner prescribed in RCW 80.04.020, 80.04.030, 81.04.020, 81.04.030, 80.04.040, 80.04.050, 80.04.060, 81.04.040, 81.04.050, 81.04.060 and 80.01.060. Parties desiring subpoenas should prepare them for issuance, send them to the Commission for signature and have the same served at their expense. The Commission shall be responsible only for paying the witness fees of witnesses subpoenaed by it, and each subpoena shall bear the name of the party responsible for paying the witness fees.

WAC 480-08-130 DEPOSITIONS

(1) General. The Commission shall have the right to take the testimony of any witness by deposition and for that purpose the attendance of witnesses and the production of books, exhibits, documents, papers and accounts may be enforced in the same manner as in the case of hearing before the Commission. The provisions of RCW 80.04.040, 80.04.050, 80.04.060, 81.04.040, 81.04.050 and 81.04.060 shall govern the taking of all depositions.

(2) Request that deposition be taken. Any party to a proceeding may request the Commission to take by deposition the testimony of any witness. Such party shall prepare a proper form of Commission and interrogatories, if any, and file the same with the Commission at the time of making such request. If the Commission deems the request meritorious it may take the testimony of such witness by deposition in the manner provided in Subsection (1): *Provided*, That all costs incidental thereto shall be paid by the party desiring such deposition.

WAC 480-08-140 HEARINGS

(1) General. The time and place of holding formal hearings will be set by the Commission and notice thereof served upon all parties at least ten days in advance of the hearing date, unless the Commission finds that an emergency exists requiring the hearing to be held upon less notice when all parties agree to less notice of such hearing. An effort will be made to set all formal hearings sufficiently in advance so that all parties will have a reasonable time to prepare their cases, and so that continuances will be reduced to a minimum. In valuation proceedings thirty (30) days' notice will be given in accordance with RCW 80.04.250.

(2) Dismissing applications. At the time and place set for hearing, if an applicant, petitioner or complainant fails to appear, the Commission may recess said hearing for a further period to be set by the presiding officer to enable said applicant, petitioner or complainant to attend upon said hearing, but if at the time set for the resumption of the hearing said applicant, petitioner or complainant is not present or represented, the Commission may dismiss the petition, application or complaint.

(3) Notice and hearings in contested cases. The foregoing provisions of Subsection (1) shall apply to all contested cases. Likewise, all Commission rules of practice and procedure which apply to hearings generally shall also be applicable to hearings in contested cases.

**WAC 480-08-150 CONTINUANCES**

(1) General. Any party who desires a continuance shall, immediately upon receipt of notice of the hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the Commission of said desire, stating in detail the reasons why such continuance is necessary. The Commission in passing upon a request for a continuance shall consider whether such request was promptly made. Except in cases of hardship or unless good cause is shown, no such continuance shall be granted unless such a request is made to this Commission at least five (5) days preceding the date upon which the matter is set for hearing. The Commission may grant such a continuance and may at any time order a continuance upon its own motion. Failure of an applicant to obtain a continuance in the manner noted above and to appear in support of his application at the time and place it is noted for hearing, shall result in the dismissal of his application and the forfeiture of his application filing fees. During the hearing, if it appears in the public interest that further testimony or argument should be received, a Commissioner or Examiner may in his discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

**WAC 480-08-160 STIPULATION AS TO FACTS**

(1) General. The parties to any proceeding or investigation before the Commission may, by stipulation in writing filed with the Commission or entered in the record, agree upon the facts or any portion thereof involved in the controversy, which stipulation shall be binding upon the parties thereto and may be regarded and used by the Commission as evidence at the hearing. It is desirable that the facts be thus agreed upon whenever practicable. The Commission may, however, require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

**WAC 480-08-170 CONDUCT AT HEARINGS**

(1) General. All parties to hearings, their counsel and spectators shall conduct themselves in a respectful manner. Demonstrations of any kind at hearings shall not be permitted.

(2) No smoking. Smoking shall not be permitted at formal hearings of the Commission while in session: *Provided*, That at docket hearings held in accordance with WAC 480-12-295, the presiding officer may relax this provision.

(3) Testimony under oath. All testimony to be considered by the Commission in formal hearings, except matters noticed officially or entered by stipulation, shall be sworn testimony. Before taking the witness stand each person shall swear (or affirm) that the testimony he is about to give in the hearing before the Commission shall be the truth, the whole truth and nothing but the truth.

WAC 480-08-180 ORDER OF PROCEDURE

(1) General. Evidence will ordinarily be received in the following order:

(a) Upon investigation on motion of the Commission. (i) Commission's staff, (ii) respondent and (iii) rebuttal by Commission's staff.

(b) In investigation and suspension proceedings: (i) respondent, (ii) Commission's staff, (iii) protestants against suspended schedules and (iv) rebuttal by respondent.

(c) Upon applications and petitions: (i) applicants or petitioners, (ii) Commission's staff, (iii) protestants and (iv) rebuttal by applicant or petitioner.

(d) Upon formal complaints: (i) complainant, (ii) respondent, (iii) Commission's staff and (iv) rebuttal by complainant.

(e) Upon order to show cause: (i) Commission's staff, (ii) respondent and (iii) rebuttal by Commission's staff.

(f) In docket hearings: At the discretion of presiding officer or Examiner.

(2) Modification of Procedure. The order of presentation above prescribed for the several kinds of hearings, respectively, shall be followed, except where the presiding officer may otherwise direct. In hearings of several proceedings upon a consolidated record, the presiding officer shall designate who shall open or close. Intervenor shall follow the party in whose behalf the intervention is made. If the intervention is not in support of either original party, the presiding officer shall designate at what stage such intervenors shall be heard. When two causes are set for hearing at the same time and place, the cause having the lowest number shall first be heard, if all parties thereto are ready: *Provided*, That the presiding officer may direct a different order to suit the convenience of the parties.

**WAC 480-08-190 RULES OF EVIDENCE**

(1) General. Subject to the other provisions of this rule, all relevant evidence is admissible which, in the opinion of the presiding officer, is the best evidence reasonably obtainable, having due regard to its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the presiding officer shall give consideration to, but shall not be bound to follow, the rules of evidence governing general civil proceedings, in matters not involving trial by jury, in the courts of the State of Washington.

When objection is made to the admissibility of evidence, such evidence may be received subject to later ruling by the Commission. The presiding officer may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the grounds of such objection at the time such evidence is offered.

(2) Official notice. In addition to matters concerning which courts of this state take judicial notice, the Commission will take official notice of the following matters: (a) rules, regulations, administrative rulings and orders, exclusive of findings of fact, of the Commission and other governmental agencies; (b) contents of certificates, permits and licenses issued by the Commission; (c) tariffs, classifications, and schedules regularly established by or filed with the Commission as required or authorized by law. In addition, the Commission may, in its discretion, upon being requested by all parties to the proceeding so to do, take official notice of the results of its own inspection of the physical conditions involved, and may, with or without being requested by a party so to do, take official notice of the results of its previous experience in similar situations, and the general information concerning the subject which goes to make up its fund of expert knowledge. Where official notice is taken of any matter, the findings of fact shall so specify and shall state the basis upon which notice is taken.

(3) Resolutions. Resolutions, properly authenticated, of the governing bodies of cities, towns, counties and other municipal corporations and of chambers of commerce, boards of trade, commercial, mercantile, agricultural or manufacturing societies and other civic organizations will be received in evidence if offered by the president, secretary or other proper officer in person at the hearing, provided such officer was present when the resolution was passed. Such resolution shall be received subject to rebuttal by adversely affected parties as to either the authenticity of the resolution or the circumstances surrounding its procurement. Recitals of facts contained in resolutions shall not be deemed proof of those facts.

WAC 480-08-200 EXHIBITS AND DOCUMENTARY EVIDENCE

(1) Size of exhibits. Except by special permission of the presiding officer no specially prepared exhibit offered as evidence shall be of greater size when folded, than 8½ inches by 13 inches: *Provided*, That maps of greater size, necessary to a presentation of the evidence, will be admissible.

(2) Designation of part of document as evidence. When a relevant and material matter offered in evidence by any party is embraced in a book, paper or document containing other matter not material or relevant, the party offering the same must plainly designate the matter so offered. If other matter is in such volume as would necessarily encumber the record, such book, paper or document will not be received in evidence, but may be marked for identification, and, if properly authenticated, the relevant or material matter may be read into the record, or, if the presiding officer so directs, a true copy of such matter in proper form shall be received as an exhibit, and like copies delivered by the party offering the same to all other parties or their attorneys appearing at the hearing, who shall be afforded an opportunity to examine the book, paper or document, and to offer in evidence in like manner other portions thereof if found to be material and relevant.

(3) Official records. An official rule, report, order, record or other document, prepared and issued by any governmental authority, when admissible for any purpose may be evidenced by an official publication thereof, by a publication of a nationally-recognized reporting service deemed, by the presiding officer, to constitute a sufficient guaranty of trustworthiness, or by a copy attested by the officer having the legal custody thereof, or his deputy, and accompanied by a certificate that such officer has the custody, made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. In cases where such official records, otherwise admissible, are contained in official publications or publications by nationally-recognized reporting services, and are in general circulation and readily accessible to all parties, they may be introduced by reference: *Provided, however*, That proper and definite reference to the record in question is made by the party offering the same.

(4) Commission's files. Papers and documents on file with the Commission, if otherwise admissible, and whether or not the Commission has authority to take official notice of the same under WAC 480-08-190 (2), may be introduced by reference to number, date or by any other method of identification satisfactory to the presiding officer. If only a portion of any such paper or document is offered in evidence, the part so offered shall be clearly designated.

\* Intra-office Commission memoranda and reports when designated as confidential by the Commission, to the extent permitted by section 31, chapter 1, Laws of 1973, are not public records subject to inspection, nor shall such documents be introduced in evidence.

\* G. O. R-43  
4/5/73

(5) Records in other proceedings. In case any portion of the record in any other proceeding is admissible for any purpose and is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless:

(a) the party offering the same agrees to supply such copies later at his own expense, if and when required by the Commission; and

(b) the portion is specified with particularity in such manner as to be readily identified; and

(c) the parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any portion offered by any other party may be incorporated by like reference; and

(d) the presiding officer directs such incorporation.

(6) Objections. Any documentary evidence offered, whether in the form of exhibit or introduced by reference, shall be subject to appropriate and timely objection.

(7) Copies of exhibits to opposing counsel. When specially prepared exhibits of a documentary character are offered in evidence, copies must be furnished to opposing counsel, the presiding officers and the reporter, unless the presiding officer otherwise directs. Unless a greater number is requested, twelve copies shall be prepared and the furnishing of said twelve copies shall be deemed compliance with this rule. Whenever practicable, the parties should interchange copies of exhibits before, or at the commencement of the hearing.

**WAC 480-08-210 MODIFIED PROCEDURE**

(1) General. Modified procedure, as defined hereinafter (in lieu of oral hearing) shall apply only to hearings required by law involving rates, charges, classification, rules and regulations of the Commission involving changes in freight tariffs issued by or filed with the Commission on Washington intrastate traffic. "Modified Procedure" means the procedure specified in this rule which provides for the filing and service of pleadings in proceedings with a view to limiting the matters upon which oral evidence, if any, will be introduced.

**(2) Modified procedure--How initiated.**

(a) Petition on Commission's initiative. Modified procedure may be ordered in a proceeding upon the Commission's initiative or upon its approval of a petition filed by any party that the modified procedure shall be observed.



(b) Order directing modified procedure. An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified procedure rules. As used herein, the term "complainant" shall include the term "respondent" or "applicant", and the term "defendant" shall include the term "protestant", as specified in this rule.

(3) Modified procedure--Effect of order.

(a) Relief from answer rule. Issuance of an order directing modified procedure in a complaint case shall relieve defendant from the obligation of answering as provided in WAC 480-08-050 (14).

(b) Default where failure to comply. If within any time period provided in the modified procedure rules a party fails to file a pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing. Thereafter the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party.

(4) Modified procedure--Intervention. Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

(5) Modified procedure--Joint pleadings. Parties having common interests should arrange for joint preparation of pleadings filed under modified procedure.

(6) Modified procedure--Content of pleadings. General. A statement filed under the modified procedure after that procedure has been directed shall state the facts and include the exhibits upon which the party relies. If no answer has been filed pursuant to the waiver provision of Subsection (3) above, defendant's statement in reply shall specify those statements of fact of the opposite party to which exception is taken, and include a statement of the facts constituting the basis for such exception. Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

(7) Exhibit identification. In addition to being in compliance with WAC 480-08-200 (1) an exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right-hand corner: "Cause Number . . . , Exhibit No. . . . , Witness . . . . ."

(8) Modified procedure--Verification. The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses orally.

(9) Modified procedure--When pleadings filed and served. Within 20 days from the date of an order requiring modified procedure, the party initiating the proceeding shall serve upon the other parties a statement of all the evidence upon which it relies. Within 30 days thereafter the defendant (or protestant) shall serve its statement(s). Within 10 days thereafter complainant shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

(10) Modified procedure--Copies of pleadings. The original and 3 copies of any statement made pursuant to these rules shall be filed with the Commission. One copy shall be served on all other parties of record in accordance with the provisions of WAC 480-08-060 (3).

(11) Modified procedure--Hearings.

(a) Request for cross-examination or other hearing. If cross-examination of any witness is desired and name of the witness and subject matter of the desired cross-examination shall, together with any other request for oral hearing, including the basis therefor, be stated at the end of defendant's statement or complainant's statement in reply as the case may be.

(b) Hearing issues limited. The order setting the proceeding for oral hearing, if hearing is deemed necessary, will specify the witnesses to be cross-examined and other matters upon which the parties are not in agreement and respecting which oral evidence can be introduced. Any parties shall have the right to rebut any new evidence brought into evidence at such oral hearing.

(12) Offer in evidence of verified statements. If no cross-examination under Subsection (11) is requested of a witness who has properly filed and served a verified statement under this rule, and no objection by a party of record is filed with the Commission (as of that same time) against such verified statement (in whole or in part) on the grounds that:

(a) The statement does not contain probative evidence, or

(b) The evidence in such statement is incompetent, immaterial and/or unduly repetitious,